

ENTERED

August 26, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

R.P.M. FUEL, LLC,

Plaintiff,

VS.

PBR SALES, LLC, *et al*,

Defendants.

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CIVIL ACTION NO. 2:18-CV-330

ORDER GRANTING SUMMARY JUDGMENT

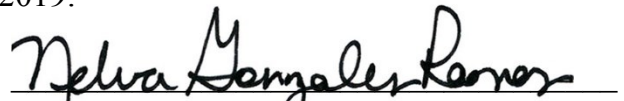
Before the Court is Plaintiffs' Motion for Summary Judgment (D.E. 44). Pursuant to Local Rule 7.3, opposed motions will be submitted to the judge 21 days from filing. The motion was filed on July 29, 2019, and its submission date was August 19, 2019. Defendants, who have previously been held in civil contempt and sanctioned for failure to appear and conduct discovery (*see* D.E. 47), have not filed a response to the motion. Pursuant to Local Rule 7.4, failure to respond is taken as a representation of no opposition to the relief sought. The Court finds that Defendants' default further demonstrates a failure to defend against the claims subject to the motion.

The Court, after reviewing the motion on the merits, finds that it is well-taken for the reasons expressed therein. For these reasons, the motion for summary judgment (D.E. 44) is GRANTED IN PART and the Court ORDERS that Plaintiffs are entitled to judgment against Defendants for breach of contract, fraud in the inducement and in the factum, and breach of fiduciary duty, and are entitled to judgment for actual damages in the amount of \$8,005,600, exemplary damages in the amount of \$1,000,000, and

attorney's fees for services rendered to date in the amount of \$41,650.00. The motion is DENIED IN PART WITHOUT PREJUDICE with respect to Plaintiffs' request for attorney's fees in the event of appeal. Such fees may be requested for representation on appeal at the conclusion of appellate proceedings. *Instone Travel Tech Marine & Offshore v. Int'l Shipping Partners, Inc.*, 334 F.3d 423, 433 (5th Cir. 2003).

The Court ORDERS Plaintiffs to elect their remedies and file their proposed judgment on or before September 4, 2019.

ORDERED this 26th day of August, 2019.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE